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In re Application of	:	
Ploug et al.	:	
Application No.: 09/000008	:	DECISION
PCT No.: PCT/DK96/00302	:	ON REQUEST
Int. Filing Date: 04 July 1996	:	AND NOTIFICATION
Priority Date: 15 July 1995	:	
For: AXIAL PISTON MICROPUMP	:	
	:	
	:	

This is a decision on the response filed 15 June 1998 and the communication filed 29 June 1998, which are considered as a petition under 37 CFR 1.181 requesting withdrawal of the NOTIFICATION OF A DEFECTIVE RESPONSE (Form PCT/DO/EO/916) mailed 26 May 1998.

On 15 January 1998, applicants filed a transmittal letter for entry into the national stage in the United States which was accompanied by, inter alia, a \$1070.00 check applied as payment for the basic national fee.

On 16 March 1998, the United States Designated/Elected Office (DO/EO/US) mailed a NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating that the oath or declaration in compliance with 37 CFR 1.497(a) and (b) and the requisite surcharge payment for furnishing the oath/declaration after 30 months from the priority date were required.

On 26 March 1998, applicants filed a combined declaration and power of attorney and the requisite surcharge payment.

On 26 May 1998, the United States Designated/Elected Office (DO/EO/US) mailed a NOTIFICATION OF A DEFECTIVE RESPONSE (Form PCT/DO/EO/916). A Notification of Defective Oath or Declaration (Form PCT/DO/EO/917) accompanying the Notification (Form PCT/DO/EO/916) further indicated, in effect, that the oath/declaration filed 26 March 1998 was not acceptable since it did not identify the named inventors. In this regard, it was noted that Mr. Poulsen was not identified as a named inventor. The notification (Form PCT/DO/EO/916) set a ONE (1) MONTH time limit for response or the time for response remaining as set forth in the Notification mailed 16 March 1998 , whichever is longer.

The present petition requests, in effect, that the NOTIFICATION OF A DEFECTIVE

RESPONSE (Form PCT/DO/EO/916) mailed 26 May 1998 should be vacated. A copy of a declaration of Mr. Schubert indicates that he changed his name from Jakob Bogh Poulsen to Jakob Bogh Schubert after the filing of the international application. Since the declaration filed 26 March 1998 included the second named inventor Poulsen's former surname crossed out with the alleged new surname Schubert above the signature, it is asserted that the declaration should be accepted and that the notification (Form PCT/DO/EO/916) mailed 26 May 1998 should be vacated.

DISCUSSION

A review of the international application and the declaration reveals that the inventorship indicated in the declaration does not appear to correspond to the inventorship of the international application. In this regard, Mr. Schubert is not indicated as a named inventor on the international application. As applicant recognizes in each of the 15 and 29 June 1998 submissions, a petition under 37 CFR 1.182 is required for an inventor to change his/her name on an application. See M.P.E.P.605.04(c). Thus, the notification of a defective response was properly mailed on 26 May 1998. Not notwithstanding the requirement for a grantable petition and fee therefore to effect a recording of a change of name of the inventor on the application and applicant's recognition of such a requirement, a review of the application file reveals that applicants did not furnish the requisite petition in response to the notification (Form PCT/DO/EO/916) mailed 26 May 1998.

Therefore, the declaration filed 26 March 1998 is currently not considered as being in compliance with 35 U.S.C. 371(c)(4) and 37 CFR 1.497(a) and (b) in view of the difference in the surname of the second named inventor shown on the declaration with that indicated on the international application. The declaration is not acceptable without a grantable petition under 37 CFR 1.182 as indicated above. Thus, at this time, a proper response to the notifications mailed on 16 March and 26 May 1998 has not been received:

Accordingly, the application is considered **ABANDONED** as of 17 April 1998 for failure to file a timely complete and proper response to the Notification mailed 16 March 1998.

RECOMMENDATION

Applicant(s) may wish to consider filing a petition to the Commissioner under 37 CFR 1.137(a) or (b) requesting that the application be revived.

CONCLUSION

For the reasons above, the application is **ABANDONED**.

For the reasons above, the petition under 37 CFR 1.181 is **DISMISSED** without prejudice.

This application is being forwarded to the National Stage Processing Division of the Office of PCT Operations for the preparation and mailing of a Notification of Abandonment (Form PCT/DO/EO/909) indicating, in effect, that the application held to be abandoned for failure to timely file a proper response to the Notification (Form PCT/DO/EO/905) mailed 16 March 1998.

Application No.: 09/000,008

Any further correspondence with respect to this matter should be addressed to the Assistant Commissioner for Patents, Box PCT, Washington, D.C. 20231, with the contents of the letter marked to the attention of the PCT Legal Office.



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